

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION II

CA06-894

February 28, 2007

RAUL TINJERO

APPELLANT

APPEAL FROM THE DREW COUNTY
CIRCUIT COURT
[JV-02-42-5]

V.

DEPT. OF HEALTH & HUMAN
SERVICES

HON. TERESA ANN FRENCH,
CIRCUIT JUDGE

APPELLEE

AFFIRMED

Appellant Raul Tinjero is the father of D.T., a minor. On June 6, 2002, an emergency order was entered removing the child from the custody of his mother, Rebecca Strickland. Tinjero attended and was represented by counsel at the probable-cause hearing and also at the hearing on July 17, 2002, when the Drew County Circuit Court entered an order adjudicating D.T. dependent-neglected. On March 31, 2006, after a hearing, the circuit court entered an order terminating Tinjero's parental rights. From that decision, comes this appeal.

For reversal, Tinjero contends that the court's decision to terminate his parental rights was clearly erroneous because he was denied his right to counsel; his case plan was deficient; termination of parental rights was not a goal of the proceeding; and a relevant witness's testimony was not considered by the trial court. We find no error, and we affirm.

The primary justification supporting the trial court's decision terminating Tinjero's parental rights was that D.T. had been in the custody of the Arkansas Department of Health and Human Services for three years and nine months. During this time, D.T. had "only three or four trial visits" with his father, despite the fact that Tinjero was "aware of what was needed to have D.T. placed in his home." The trial court went on to note that Tinjero failed to establish stable housing during this three-year period, that he did not have a valid driver's license, and that he only attended fifty percent of the therapy sessions "where he had the opportunity to be trained how to deal with and handle [D.T.'s] special needs and to visit the child." Finally, the court found that DHHS made a reasonable effort to rehabilitate Tinjero and his home.

Although Tinjero does not directly attack the court's decision to terminate his parental rights, we note that grounds for termination of parental rights must be proven by clear and convincing evidence. Ark. Code Ann. § 9-27-341(b) (Repl. 2002). When the burden of proving a disputed fact in chancery is by "clear and convincing" evidence, the question on appeal is whether the chancellor's finding that the disputed fact was proved by clear and convincing evidence is clearly erroneous, giving due regard to the opportunity of the trial court to judge the credibility of witnesses. *Beeson v. Ark. Dep't of Human Servs.*, 37 Ark. App. 12, 823 S.W.2d 912 (1992). Termination of parental rights is an extreme remedy and in derogation of the natural rights of the parents, but parental rights will not be enforced to the detriment or destruction of the health and well-being of the child. *Corley v. Ark. Dep't*

of Human Servs., 46 Ark. App. 265, 878 S.W.2d 430 (1994).

Further, Ark. Code Ann. § 9-27-341(b)(3)(B)(i)(a) (Supp. 2005), states that a parent's rights can be terminated if there is clear and convincing evidence that the juvenile has been adjudicated dependent-neglected, has been out of the home for twelve months, and despite an effort by DHHS to rehabilitate the home, those conditions have not been remedied by the parent. *Beeson*, 37 Ark. App. at 13, 823 S.W.2d at 913 (1992).

In this case, despite reasonable efforts by DHHS, after three years Tinjero failed to demonstrate the ability to properly care for his son. He failed to maintain stable housing, to attend therapy sessions, to obtain his driver's license, and—according to the therapist—“remains no closer to being able to parent [D.T].” Accordingly, we hold that the circuit court's decision terminating Tinjero's parental rights is not clearly erroneous.

As to Tinjero's argument that he was denied counsel during some portions of the trial, our supreme court has concluded that representation at the termination stage of the proceeding cures any defects that may arise when a parent is unrepresented at earlier hearings. *See Briscoe v. State*, 323 Ark. 4, 912 S.W.2d 425 (1996). The record shows and Tinjero concedes that he did have the services of his current counsel for thirty-nine months—beginning on December 4, 2002, and continuing through the final hearing in which the entire case against him was presented.

The *Briscoe* case notwithstanding, we do not reach the merits of this argument or Tinjero's remaining claims because he failed to properly raise the issues below. It is well settled that a party's failure to obtain a ruling precludes our review of an issue on appeal. *Finagin v. Ark. Dev. Fin. Auth.*, 355 Ark. 440, 139 S.W.3d 767 (2003). Accordingly, we find that the circuit court's decision to terminate Tinjero's parental rights was not clearly erroneous and affirm.

Affirmed.

HEFFLEY and MILLER, JJ., agree.